

BID CONDITIONS**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL OPPORTUNITY
(Executive Order 11246)**

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

Timetables	Goals for Minority Participation for Each Trade	Goals for Female Participation in Each Trade
	3.0% R.I. Except Newport County	6.9%
	3.1% Newport County	6.9%

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to met the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs through the Area Director, OFCCP, 169 Weybosset Street, Providence, Rhode Island 02903, within 10 working days of award of any construction subcontract in excess of \$10,000.00 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the Subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
4. As used in this Notice, and in the contract resulting from this Solicitation, the "covered area" is the State of Rhode Island.

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS
(Executive Order 11246)**

1. As used in these specifications:
 - (a) "Covered area" means the geographical area described in the solicitation from which this contract resulted.
 - (b) "Director" means Director, Office of Federal Contract Compliance Programs United States Department of Labor, or any person to whom the Director delegates authority.
 - (c) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - (d) "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000.00 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in a approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction Contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal

procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability to employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - (a) Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all on site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - (b) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization responses.
 - (c) Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
 - (d) Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
 - (e) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources complied under 7b above.
 - (f) Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
 - (g) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or

other employment decisions including specific review of these items with on site supervisory personnel such as Superintendents, Supervisors, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

- (h) Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
 - (i) Direct its recruitment efforts, both oral and written, to minority female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection procedures.
 - (j) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
 - (k) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - (l) Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - (m) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - (n) Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - (o) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - (p) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor associations, joint contractor union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the Contractor may be in violation

of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though a Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program.).
 - (a) A Form 257, Monthly Employment Utilization Report, is to be completed by both Contractor and Subcontractors, and signed by the designated EEO Officer or an authorized representative of the prime or subcontractor. The reports are to be submitted by the 5th of each month during the term of the contract. The Contractor shall submit an aggregate Form 257 showing its entire work force, minority work force, and female work force (in work hours), on all construction work (Federal and non-federally assisted) in the covered area. The Contractor shall collect and submit reports for each Subcontractor's aggregate work force, providing the same information as above.
 - (b) The Contractor shall submit a Form PR-1391, Federal-Aid Highway Construction Contractors' Annual EEO Report, to be completed by the Contractor and each Subcontractor for every month of July, during which work was performed and submitted to the State. **A separate report is to be completed for each Contractor and subcontractor holding contracts or subcontracts exceeding \$10,000.00, except where specified.** The employment data entered should reflect the work force on board during all or any part of the last payroll period preceding the end of the month of July.

NOTE: Include the R.I. Contract Number in the upper right hand corner of the form.

- (c) The Contractor shall submit a Form EEO-10, Federal-Aid Highway Construction Contractors' Semiannual Training Report, to be completed by the Contractor semiannually for each individual employed on this contract (including any subcontractors under it who have provided training during the reporting period under the training special provision). This report is to be submitted by the 20th of the month following the

reporting period (July 20 and January 20). The original of this report is to be furnished to the trainee, and two (2) copies submitted to the State.

These reports are required by the Public Laws of Rhode Island (1960), Chapters 85, 96, & 88; 23 U.S.C., 140(a); 23 CFR, Part 23; and Executive Order 11246.

JOB SPECIFIC TRAINING SPECIAL PROVISIONS

The purpose of this specification is to require the establishment of a contractor based program to provide on-the-job training for the purpose of developing full journeyworkers through apprenticeship programs in accordance with the Rhode Island Department of Transportation Training Special Provision Program Overview which is available at the Rhode Island Department of Transportation, Office of Civil Rights. This training is to be provided as part of the Contractor=s equal employment opportunity affirmative action program and selections to this program should be based on the Contractor=s needs relative to achieving compliance. Therefore, until such time as the Contractor can show full utilization of minorities and women with respect to his affirmative action goals, this program shall, for the most part, be limited to minorities and/or women. The Department maintains the right to reject any applicant which it feels is not appropriate given all the pertinent factors and information available at the time of appointment. As such, the Contractor shall supply to the Department=s External Equal Opportunity office (EEO) any information utilized in the consideration of the appointments. The Department will then notify the Contractor, in writing, with proper explanation as necessary, as to the acceptability of an applicant. This training commitment is not intended, and shall not be used, to discriminate against any applicant for training, whether a member of a minority group or not. Furthermore, no employee shall be employed as a trainee in any classification in which they have successfully completed a training course leading to journeyworker status or in which they have been employed as a journeyworker.

The contractor will submit to the Department=s EEO office, for written approval, prior to the start of the normal construction season and not later than April 1st of that year a training plan outlining and detailing the proposed number of trainees, projected hours to be worked and the type of training to be provided. The number of trainees maintained within the training program annually will be based on the Contractor=s projected gross Rhode Island work for that particular year. The Contractor will provide training for one individual for up to every five million dollars (\$5,000,000.00) of the Contractor=s anticipated gross Rhode Island work less subcontracting expenses. Due to the fact that the original yearly staffing for this program will be based on projections, adjustments to the program will be allowed upon written approval of the Department.

The minimum length and type of training for each classification will be as established in the training program selected by the Contractor and approved by the Department. The Department shall approve the program if it is reasonably calculated to meet the equal employment opportunity obligations of the Contractor and to qualify the average trainee for journeyworker status in the classification concerned. Furthermore, apprenticeship programs registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training or with a state apprenticeship agency recognized by the Bureau and training programs approved but not necessarily sponsored by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training shall also be considered acceptable provided it is being administered in a manner consistent with the equal employment obligations of the Contractor. The intent of this provision is to provide training in the construction crafts rather than clerk-typists or secretarial-type positions. Training is permissible in lower level management positions such as office engineers, schedulers, estimators, timekeepers, and so on where the training is oriented toward construction applications. Training in the laborer classification may be permitted provided that significant and meaningful training is provided.

Although the intent of this requirement is to utilize trainees on Rhode Island Department of Transportation (RIDOT) projects, the program is not limited solely to participation on RIDOT projects. The Contractor may utilize trainees on private contracts as well, providing the work is appropriate and in keeping with the training goals established for that particular trainee. The intent of this allowance is for the purpose of maintaining, to the extent possible, continuous training for the trainee and his or her ultimate achievement of journeyworker status. Therefore, the Contractor shall make every effort to maintain those trainees under his employ prior to any lay-off action. Additionally, in the event of a lay-off, the Contractor shall, to the satisfaction of the Department, make every effort to reinstate those persons laid off, who were entered in his training program prior to any new recruitment in said program. Furthermore, those trainees satisfactorily completing a construction season and still classified as a trainee, shall be automatically enlisted in the Contractor=s next training program where work projections allow unless the trainee is unavailable or not returned for reasons mutually agreed upon by the Department and the Contractor.

The Contractor shall submit to the Department=s EEO office monthly reports on all personnel incorporating all achievements

associated with the training program for that particular period. The report shall list all trainees and their employment status categorizing all hours for each trainee by contract, and further divided by FAP and Non-FAP projects. The report shall also be accompanied by a narrative on each trainee outlining any substantive achievements or problems encountered during the reporting period. Discussion should also be included as to the ability, attitude, attendance and potential of the individual trainees and any recommendations which the Contractor may have relative to trainees and/or the program. These reports are subject to verification by RIDOT's EEO office and must be supported by certified payrolls. Any attempt on the Contractor's part to simply submit a formatted report without an original personal discussion on each trainee taking part in the program will be deemed unacceptable. Monthly reports shall be submitted on standardized forms incorporated into the CHAMP program.

Based on submitting proper documentation for payment, the Contractor will receive reimbursement at the bid price rate for each trainee hour worked by an approved trainee within the training program on RIDOT federally funded projects. Payments will be processed against those projects in which training occurred subject to verification by the Department. Reimbursement requests shall be submitted by the contractor monthly where applicable. The Contractor will not receive any financial reimbursement for hours worked on non RIDOT or non federally funded RIDOT activities; however, the hours worked which are not financially reimbursable will still be attributed to and count as credit towards the Contractor's approved training program.

Compliance determinations with respect to the Contractor's efforts to achieve those goals established for a training season as outlined in the Contractor's approved training program will be conducted and completed bi-annually within a particular season during the months of July and December. The July review will allow for adjustments in staffing based on more definitive contract work information. However, should the Department determine through the year-end review that the Contractor has failed to comply with the goals outlined and included in the contractor's training program, then the number of remaining hours not met for that compliance period (April-December) will be multiplied by the prevailing wage rate for those trainee classifications deficient with the resulting costs being reimbursed to the Department by the Contractor prior to the beginning of the next training period. Should the Contractor fail, and without just cause, to comply with this reimbursement requirement, then he will be precluded from bidding on all RIDOT projects until such time as this financial obligation to this Department has been met and a new and approved training program is established and initiated with this Department.

Basis of Payment: The Contractor will be paid for this item under ACode 940.0100 Trainee Work-hours@. The unit bid price per work hour as paid to the Contractor shall constitute full compensation for the trainee services including all fringe benefits. Minimum bid for this item is \$6.00/hour. Reimbursement will be made only in accordance with the requirements of this specification and only for work performed on federally funded RIDOT projects.

SPECIAL NOTE: If a ATrainee@ pay item is not carried in the proposal pages, then this special provision is not applicable.

Revised: 7/25/95

SPECIAL PROVISIONS

DISADVANTAGED BUSINESS ENTERPRISE AFFIRMATIVE ACTION CERTIFICATION FOR CONTRACTORS AND CONSULTANTS

With respect to the above numbered project, I hereby certify that I am the _____
(Title)

and duly authorized representative of _____
(Firm)

whose address is _____
(Street)

(City) (State) (Zip)

I do hereby certify that it is the intention of the above organization to affirmatively seek out and consider Disadvantaged Business Enterprises to participate in this contract as contractors, subcontractors and/or suppliers of materials and services. I agree to comply with the requirements of the U.S. Department of Transportation's regulations 49 CFR Part 23.

I understand and agree that any and all contracting in connection with this contract, whether undertaken prior to or subsequently to award of contract, will be in accordance with this provision. I also understand and agree that no contracting will be approved until the State Department of Transportation has reviewed and approved the affirmative actions taken by the above organization.

"Disadvantaged business" means a small business concern; (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

"Small business concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, or women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act.

A qualified DBE is defined as one that is currently certified by the Rhode Island Department of Administration, under U.S. Department of Transportation certification guidelines.

The Department shall make a rebuttable presumption that individuals in the following groups are socially and economically disadvantaged. The Department also may determine, on a case-by-case basis, that individuals who are not a member of one of the following groups are socially and economically disadvantaged.

- (a) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
- (b) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, Portuguese, or other Spanish culture or origin, regardless of race;
- (c) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- (d) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;
- (e) "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan and Bangladesh; and
- (f) "Women."

The Disadvantaged Business listings or other available resources may be obtained at the Rhode Island Department of Transportation, External Equal Opportunity Office, State Office Building, Providence.

The phrase "Owned and Controlled" as used in this definition means a business which is at least fifty-one (51) per centum owned by one or more Socially Economically Disadvantaged Individuals or in the case of a publicly owned business, at least fifty-one (51) per centum of the stock of which is owned by one or more Socially Economically Disadvantaged Individuals and whose management and daily business operations are controlled by one or more such individuals.

This also includes: (a) a sole proprietorship legitimately owned by an individual who is a socially economically disadvantaged individual, (b) a corporation or other entity controlled by one or more socially economically disadvantaged individuals and in which at least fifty-one (51) per centum of the voting interest and fifty-one (51) per centum of the beneficial ownership interest legitimately are held by such individuals, or (c) a partnership or joint-venture controlled by one or more socially economically disadvantaged individual and in which at least fifty-one (51) per centum of the beneficial ownership interests legitimately are held by such individuals.

"Regular Dealer" means being a regular, established supplier of bulk goods that supplies a product on a regular basis to the public, not on only an ad hoc basis in relation to this contract. The firm must either maintain an inventory or have possession of distribution equipment.

The utilization of disadvantaged business enterprises is in addition to all other equal opportunity requirements of this contract.

I. EXPLANATIONS:

- A. The total dollar value of a prime contract awarded to a DBE will be counted toward the DBE requirement. Likewise, all subcontract work performed by a DBE will count toward the DBE requirement.

The amount credited toward DBE goal will be the ACTUAL VALUE of the subcontract with the DBE.

Contractors may count expenditures for materials and supplies obtained from DBE suppliers and manufacturers, provided that the DBEs are regular dealers and assume the actual and contractual responsibility for the provision of the materials and supplies. The entire expenditure to a DBE manufacturer (supplier that produces goods from raw materials or substantially alters them before resale) may be counted. Sixty percent (60%) of expenditures to DBE suppliers that are regular dealers and not manufacturers may be counted provided that the supplier performs a commercially useful function in the supply process. All expenditures with manufacturers and suppliers must be properly documented in writing in order to count toward a DBE obligation.

- B. If at any time during the life of the contract it is determined that the Contractor is not making a satisfactory effort to fulfill the DBE requirement, the Department may withhold payment of monthly estimates.
- C. Failure by the Contractor to meet the minimum goal established in II.A.(2) of this provision will result in the reduction in contract payments by the amount determined by multiplying the awarded contract value by the above specified percent, and subtracting the dollar value of the work actually performed by DBE contractors, unless exception was previously granted under sub-paragraph II.A.(4).
- D. Contractors and subcontractors are advised that failure to carry out the requirements shall constitute a breach of contract and, after notification by the Department, may result in termination of the agreement or contract by the Department or such remedy as the Department appropriate.

II. ACTION REQUIRED BY CONTRACTOR:

Prior to contract award and within 10 days from the receipt of bids, the contractor shall as a minimum, take the following actions to assure full opportunity to disadvantaged business enterprises:

- A. Develop and submit for approval the Disadvantaged Business Enterprise (DBE) Program which will include as a minimum:
 - (1) Appointment of a representative to administer the Contractor's Disadvantaged Business Enterprise Program.

- (2) Action to meet the established goal of not less than _____ percent of the contract bid price to the contractors, subcontractors, and/or suppliers which qualify as Disadvantaged Business Enterprises. A contractor may count toward its DBE goal a portion of the total dollar value of a contract with a joint-venture eligible under this certification, equal to the percentage of the ownership and controls of the DBE partners in the joint-venture.
- (3) The contractor will be required to submit to the RIDOT Construction Section for approval any subcontractor and/or supplier, and submit executed contract agreement(s) between the contractor and the qualified DBE to be utilized during the performance of work. In the case of consultant contracts, the consultant shall submit the above DBE Program as stated in the Scope of Work. This DBE Program shall be included in the proposal submission to the Design Section, and include the name of the DBE, scope of work, and the actual dollar value. (4) In the event that the cumulative percentages submitted do not equal or exceed said goal of Section II.A.(2), the contractor's submission shall include a request for a good faith waiver of the goal for the reason that qualified disadvantaged business enterprises are demonstrated to be not available. Evidence in support of the request for a good faith waiver must accompany this request (see 49 CFR Part 23, Appendix A).

Should a good faith waiver be granted, the contractor will continue to pursue the goal established in sub-paragraph II.A.(2) above in connection with the actions involving contracting, subcontracting, and/or procuring materials and services during the life of the contract.
- (5) Contractors are encouraged to use the services of banks owned and/or controlled by minorities. Contractors are encouraged to assist DBEs in financing and bonding in order to involve more DBEs in the work. Contractors are encouraged to offer managerial assistance to DBEs as necessary to help them in the prosecution of the work.
- (6) The Contractor shall keep such records as are necessary to determine compliance with its Disadvantaged Business Enterprises Utilization obligations. The records kept by the contractor will include:
 - (a) The number of DBE contractors, subcontractors, and suppliers; and the type of work, materials, or services being performed on or incorporated in this project.
 - (b) The progress and efforts being made in seeking out DBE contractor organizations and individual DBE contractors for work on this project.
 - (c) Documentation of all correspondence, contact, telephone calls, etc., to obtain the services of DBE on this project.
 - (d) All such records must be maintained for a period of three (3) years following acceptance of final payment and will be available for inspection by the State Department of Transportation and the Federal Highway Administration.
- (7) A contractor for a construction contract will not be eligible for award of contract under this invitation for bids unless such contractor has submitted, at the time of the Bid Opening, this Certification. A Consultant will be required to sign this Certification at the time of the contract execution or the award of contract will be nullified.

(Signature of Contractor or Consultant)

Date

Special Note: In cases where the contract is funded by FAA or FRA, substitute the term "MBE(s)" in lieu of "DBE(s)." The term, "Minority Business Enterprise" or "MBE" means a small business concern as defined pursuant to Section 3 of the Small Business Act (15 USC 632) and its implementing regulations (13 CFR Part 121), that is owned and controlled by one or more minorities or women.

CERTIFICATION FOR FEDERAL-AID CONSTRUCTION/CONSULTANT CONTRACTS

IN ACCORDANCE WITH PUBLIC LAW 101-1210 SECTION 319 (DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES) THE PROSPECTIVE PARTICIPANT CERTIFIES, BY SIGNING AND SUBMITTING THIS BID OR PROPOSAL, TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF, THAT:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

(R.I.D.O.T. APPENDIX C)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to Title 31, U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10.
 - (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
 - (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (03-48-00-46), Washington, D.C. 20503.

CONTINUATION SHEET

Reporting Entity: _____

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Standard Form - LLL-A